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October 13, 2022

Edythe Nash Gaiser, Clerk
Supreme Court of Appeals of West Virginia
State Capitol Building, Room E-317
1900 Kanawha Blvd., E.
Charleston, WV 25305

Re: Public Comment on Proposed Amendments to the West Virginia Rules of Civil Procedure, No. 21-Rules-12

Dear Edye:

In accordance with the Supreme Court of Appeals of West Virginia's Order of June 15, 2022, as later extended, I am offering my individual public comments on the Proposed Amendments to the West Virginia Rules of Civil Procedure, No. 21-Rules-12. This letter contains very general comments regarding the Proposed Rules and I have attached more specific comments.

First and foremost, I want to applaud the Supreme Court for tackling this project. Over the past 15 years, the Federal Rules of Civil Procedure have undergone significant changes, and our West Virginia Rules of Civil Procedure have remained relatively stagnant and unamended. It is well past time that the West Virginia Rules of Civil Procedure should have been amended, and I personally encourage the Court to act without haste and proceed with amending the Rules as proposed by the Committee.

My comments are offered from my perspective as an attorney litigating in State and Federal Courts for over forty years and as a result of having served as a Special Commissioner for discovery matters for many Circuit Court Judges around the State and for the Mass Litigation Panel ("MLP"). Many of my comments are directed to the discovery process since that is what I have been most involved with. When sitting as a Special Commissioner, it has been very difficult to rule on e-discovery matters, because West Virginia had not adopted a single rule consistent with the Federal Rules that addresses e-discovery. When serving as a Special Commissioner, I usually dealt with e-discovery disputes as if West Virginia had adopted the Federal Rules and followed

federal precedent without any objections from the parties. This Court's decision to now adopt the Federal Rules on e-discovery is a welcome relief for all litigants in Wes Virginia.

Further, the Federal Rules long ago adopted standards of proportionality related to discovery that West Virginia has never adopted. In recent MLP Opioid litigation, I constantly had to remind my national counsel and other pharmacy national counsel that West Virginia had not adopted proportionality discovery standards thus vitiating standard discovery arguments that they proposed. Personally, I found it quite embarrassing that West Virginia was so out of date with the Federal Rules and that many standard discovery arguments based on proportionality and advanced across the country, could not be raised before the MLP in West Virginia. I truly applaud the Court's efforts to modernize discovery practice in West Virginia by adopting these new Proposed Rules.

I also want to state that I welcome the Court's decision to make Proposed Rule 23 more similar to the Federal Rule. I have litigated class actions in both State and Federal Courts, and it has been cumbersome to have two very different sets of standards for class actions. There were many provisions under West Virginia's Rule 23 that ignored the federal standards and that made federal precedent immaterial. I certainly think the harmonization of these provisions for class actions under Rule 23 is a good move for West Virginia Courts.

I want to applaud the Court for adding several provisions from the Federal Rules that West Virginia has not followed in the past, including initial disclosures under Rule 26(a)(1) and Reports of Planning Meetings under Rule 26(f). I would think most counsel in West Virginia are now very familiar with these practices from appearances in Federal Court, and these should not be difficult tasks to follow in State Court. I would note, however, that the Proposed Rules do not suggest a format or provide any advice with regard to the content and procedures for Reports of Planning Meetings under Rule 26(f). Both the Southern District and the Northern District of West Virginia offer forms and guidance for these reports. I have attached hereto the Southern District form and worksheet that we regularly use to complete these reports in the Southern District. I am not suggesting that West Virginia has to use the federal format, but I would encourage the Court to adopt some type of forms and guidance for what is expected in West Virginia for a Report of Planning Meeting. Otherwise, I think we will end up with wildly divergent practices across the various Circuit Courts in West Virginia.

Another big step forward under the Proposed Rules is the Court's decision to adopt the requirements of a written expert report under Rule 26(a)(2) of the Proposed Rules. Litigation over expert opinions has always been difficult in State Court when there has been no requirement that

an expert report even be prepared. I think this requirement harmonizes West Virginia's practice with Federal practice, and it should benefit all parties in litigation in West Virginia.

These are intended to be my general comments regarding the Proposed Amendments to the West Virginia Rules of Civil Procedure, No. 21-Rules-12. I have attached hereto more detailed and specific comments that I have regarding the Proposed Rules, particularly my objections to Proposed Rule 53.1, and I thank the Court for this opportunity to provide public comments.

Finally, while I have your attention, I want to raise one other antiquated rule that is not directly germane to this public comment period, but I cannot resist the opportunity to suggest another set of Rules that need updating. The Trial Court Rules were promulgated in 1999, and many of them desperately need updating. Trial Court Rule 6.04 is a prime example of a Rule that made sense once upon a time, when the courthouses only had the United States Reports, the West Virginia Reports, and the Southeastern Reports, but it no longer makes sense in this time of computer assisted research. In the recent MLP Opioid case, and in many other cases that I have litigated in State Court, parties are required to file hundreds of pages of cases under Trial Court Rule 6.04, for no apparent purpose. I am sure no one ever consults these filed cases, as everyone has access to them, including the Circuit Court Judges and Law Clerks, through their computer research programs. This Court should next consider the Trial Court Rules and how best to revise them. I would certainly recommend the repeal of Trial Court Rule 6.04 as soon as possible.

Thank you for your attention to my public comments. If you or anyone at the Court have any further questions or comments, then please advise.

Very truly yours,

Webster J. Arceneaux, III

WJA/
Enclosures

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RESET

L R Civ P 16.1 Form (05/2022)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT SELECT:

v. CASE NO.

Guideline for parties and attorneys:
The parties are advised to use the *Worksheet for Report of Parties' Planning Meeting* (located on the Court's website at www.wvsd.uscourts.gov) and the suggested Guidelines contained in the form's comments.

REPORT OF PARTIES' PLANNING MEETING

1. Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, a meeting was held on _____. Those participating were:

_____ for plaintiff(s)

_____ for defendant(s) _____

_____ for defendant(s) _____

_____ for defendant(s) _____

2. Pre-Discovery Initial Disclosures. The parties will exchange by _____ the information required by Fed. R. Civ. P. 26(a)(1).

3. Plaintiff(s) should be allowed until _____ to join additional parties and until _____ to amend the pleadings. Defendant(s) should be allowed until _____ to join additional parties and until _____ to amend the pleadings.

4. Discovery Plan. The parties jointly propose to the court the following discovery plan [Use separate paragraphs or subparagraphs as necessary if the parties disagree.]:

a. Discovery will be needed on the following subjects:

b. The parties have reviewed Local Rule 26.5 and have discussed how the preservation, discovery, and disclosure of electronically stored information ("ESI") should be handled, including the following:

i. It is likely that one or more parties will seek discovery of electronically stored information such as emails, files or documents stored on a server or computer, or other electronic documents.

Yes No

(If No, no other fields in Section 4.b need to be completed.)

The parties have generally agreed upon a format for production of ESI, as follows:

ii. The parties believe it is possible that metadata may be relevant in this case, such as the date stamp when an electronic document was created or modified.

Yes No

The parties have generally agreed upon a format for production of such metadata, as follows:

iii. At this time, the parties have agreed on what ESI is "reasonably accessible" as defined in R. 26(b)(2)(B).

Yes No

If no, identify the nature of any dispute:

iv. Have the parties agreed on any search protocol for review of electronic data including methods to filter the data?

Yes No

If yes, please describe:

If no, please identify what issues remain outstanding:

v. Are there any unresolved issues pertaining to the preservation of ESI? If so, please describe:

vi. Other. Identify all other outstanding issues or disputes concerning ESI:

c. The parties agree to file a joint motion for the entry of a protective order and to complete and submit with the motion the court's preferred Agreed Protective Order found online at www.wvsd.uscourts.gov.

Yes No

If no, please explain:

d. The parties agree to file a joint motion for the entry of an Order Governing the Inadvertent Disclosure of Documents or Other Material and to complete and submit with the motion the court's preferred Agreed Order Governing the Inadvertent Disclosure of Documents or Other Material found online at www.wvsd.uscourts.gov.

Yes No

If no, please explain:

e. The parties agree to file a joint motion for the entry of an Agreed Order Setting Disposition Protocol and to complete and submit with the motion the court's optional Order Setting Disposition Protocol available online at www.wvsd.uscourts.gov.

Yes No

f. The last day to serve discovery requests is _____. The last date on which to take a discovery deposition is 45 days after the last date to serve discovery requests. The last date on which to take a discovery deposition is known as the

"discovery completion date." [Discovery on _____ to be completed by _____.]

g. The parties adopt the discovery limits set forth in the Federal Rules of Civil Procedure.

Yes No

If the parties and attorneys believe that more discovery is needed, the basis for that belief is:

h. The parties believe that this case requires additional judicial oversight such as special case management procedures or regularly held conferences.

Yes No

If yes, please describe why the case requires additional judicial oversight and the type of oversight requested:

i. Reports from retained experts under Rule 26(a)(2) due:

By the party bearing the burden of proof on an issue: _____.

By the party not bearing the burden of proof on an issue: _____.

Expert witness disclosures intended solely to contradict or rebut evidence on the same issue identified by another party: _____.

5. Magistrate judges will resolve all discovery disputes.
The parties **SELECT:** to have a United States Magistrate Judge conduct any further proceedings in this case, including trial, and order the entry of a final judgment.

6. Mediation shall take place on or before _____.

7. Potential dispositive motions shall be filed by _____, with responses and replies filed according to the Local Rules.

8. The parties request a pretrial conference in _____.

   The Plaintiff(s) shall submit a proposed pretrial order to Defendant(s) on or before _____.

   The Defendant(s) shall compile a proposed integrated pretrial order and submit it to chambers of the presiding judicial officer on or before _____.

9. Where applicable, proposed jury instructions shall be exchanged and transmitted to chambers of the presiding judicial officer in Microsoft Word format on or before _____.

10. Where applicable, findings of fact and conclusions of law shall be exchanged and transmitted to chambers of the presiding judicial officer in Microsoft Word format on or before _____.

11. A final settlement conference will take place on _____.

12. The case shall be ready for trial by _____, and at this time is expected to take approximately _____ days.

The parties SELECT: _____ a conference with the court before the entry of the scheduling order.

s/_____ s/_____
Signature *Signature*

Counsel for: _____ *Counsel for:* _____

s/_____ s/_____
Signature *Signature*

Counsel for: _____ *Counsel for:* _____

WORKSHEET FOR REPORT OF PARTIES' PLANNING MEETING

The guidelines found in the comments on this form are those recommended by the Court. Generally, the Court expects the parties to adhere to the Guidelines. However, the Court retains authority to make final determination as to all scheduled matters.

Case Style: _____

Case No. _____ Type of trial requested: **Select one:**

Date case filed/removed = **A**: _____ Date lst defendant appears = **X**: _____

Date of scheduling conference: _____ Date of Joinder and amendments: _____

Last date to serve discovery requests = **Y**: _____

Last date to take a discovery deposition = **Z**: _____

Number of discovery requests and depositions: **Select one:**

Rule 26(a)(2) disclosures re experts:
By party bearing burden of proof: _____
By party not bearing burden of proof: _____
Rebuttal expert disclosures: _____

The parties **Select one:** to a magistrate judge conducting all proceedings.

Mediation (select one):
☐ Date by which mediation will take place: _____
☐ At least one party believes that mediation is inappropriate in this action.

Dispositive motions - not Rule 12 (select one):
☐ Date due:
☐ It is unlikely that dispositive motions will be filed in this action.

Date of settlement meeting and Rule 26(a)(3) disclosures: _____

Plaintiff(s) portion of Pretrial Order due to defendant(s): _____

Integrated Pretrial Order due: _____

Pretrial conference requested for: _____

Proposed charge to the jury due: _____
-OR-
Proposed findings of fact/conclusions of law due: _____

Final settlement conference date requested: _____

Trial date requested: _____

Specific Public Comments

Proposed Rule 4 – does not include a waiver of service or acceptance of service as does Rule 4(d) of the Federal Rules. The comments say the Committee did not recommend this provision without stating a reason. I have seen this provision utilized frequently in Federal Court, and it is a way to save a party expenses. I would encourage Federal Rule 4(d) to be adopted. I have attached hereto the language from the Federal Rule and Rules from Ohio and North Carolina that also allow waiver of service. I note that the North Carolina Rules provide that you may not email the waiver, which I agree with.

Proposed Rule 6(a)(6) – Legal Holidays should now include Juneteenth since it is now a State Holiday.

Proposed Rule 6(c)(1) and (3) – First, I am in full agreement that when a party files a motion, there should be an automatic time frame to file a response and a reply. I am concerned with the 30 day notice for hearing requirement in conjunction with the motion. With 21 days for a response and 7 days for a reply, that equals 28 days. I am concerned that this schedule places the filings too close to the hearing date, and the Court does not have enough time to review all of the filings, particularly the reply. Further, in those counties like Kanawha County that still have mailed filings, I have a concern that a mailed reply could arrive after the hearing. I think this schedule needs to be examined further.

Proposed Rule 26 – this Proposed Rule has a few minor typos – page 79, Rule 26(b)(3) has two Sections (A) and then a (B), there should be three sections, (A), (B) and (C). Also, the comments, at pages 85-86, reference several times "Section (b)(3)(C)" related to electronic discovery and proportionality, and I think the reference should be to Section (b)(2)(C) wherein electronic discovery and proportionality is discussed. This is also the case with the last bullet point at the bottom of page 85 referencing "Section (b)(3)(C)(iii)" and that should be Section(b)(2)(C)(iii).

Proposed Rule 37 – The Proposed Rule tracks the Federal Rule, but there is one critical aspect missing in this Proposed Rule. I agree that my proposal is not found in the Federal Rule either, but in the local rules adopted by the Southern and Northern District Courts of West Virginia. The Southern District of West Virginia has adopted LR Civ P 37.1(c) which provides in pertinent part a requirement that a motion to compel needs to be filed within 30 days after the discovery response.

> Motions to compel or other motions in aid of discovery not filed within 30 days after the discovery response or disclosure requirement was due are waived, and in no event provide an excuse, good cause or reason to delay trial or modify the scheduling order. The 30-day deadline may be extended by court order for good cause shown, or by stipulation of the parties, so long as the extension does not interfere with the scheduling order. Any such stipulation must be filed pursuant to LR Civ P 11.2.

Neither the Federal Rule nor the Proposed Rule contain a deadline for filing a motion to compel, and I think that is a mistake. I have been involved with motions to compel filed a year after the

discovery was filed in State Court. That makes no sense. I would urge the Court to add a time period in which to file a motion to compel as provided in the local rules adopted by the Southern District Court of West Virginia.

Proposed Rules 53 and Rule 53.1 – In my cover letter, I disclose my involvement with the Rules as a Special Commissioner for discovery matters in the Circuit Courts and before the MLP. I find it odd that the Committee notes this practice in its comments to Proposed Rule 53 and suggests it is unlawful. The Proposed Rules then go on to adopt a new Proposed Rule 53.1 to allow the appointment of Discovery Commissioners. While the Committee is certainly entitled to its personal opinion, I do not think they have made a correct statement of law, and I would recommend that this comment be stricken. I would further state that I see no problems with the existing practice under Rule 53 for the appointment of Special Commissioners to resolve discovery disputes.

The premise for the need for Proposed Rule 53.1 is that Special Commissioners are not permitted to resolve discovery disputes under existing or Proposed Rule 53. I respectfully submit that this is a false premise. In *State ex rel. Hamrick v. Stucky*, 220 W. Va. 180, 640 S.E.2d 243 (2006) and *State ex rel. Mantz v. Zakaib*, 216 W. Va. 609, 609 S.E.2d 870 (2004), the Supreme Court had before it Writs of Prohibition to consider the ethical duties and conflict of interest standards for a Special Commissioner addressing discovery issues. In *Hamrick*, this Court followed *Mantz* and expanded upon it, and it adopted the following syllabus points:

> 4. "Anyone appointed as a special master is a pro-tempore part-time judge and must comply with the Code of Judicial Conduct as set forth in Canon 6." Syllabus Point 3, *Mantz v. Zakaib*, 216 W.Va. 609, 609 S.E.2d 870 (2004).
>
> 5. Whenever a discovery commissioner is appointed by a circuit court, and there is a timely objection to that appointee, the trial court has a duty to hold an evidentiary hearing to determine the legitimacy of the objection.

If the Supreme Court thought this practice of appointing Special Commissioners to hear discovery disputes was unlawful, it could have easily said so in *Mantz* and then *Hamrick*, and it would not have had to reach the syllabus points that it did. Since it did not, I think Special Commissioners are lawful in West Virginia to consider discovery disputes. There have been other decisions of the Supreme Court that further discuss the use of Special Commissioners to hear discovery disputes, further implying that this is an appropriate process. *See e.g. Aluise v. Nationwide Mut. Fire Ins. Co.*, 218 W. Va. 498, 625 S.E.2d 260, 272 (2005) and *State ex rel. Wausau Bus. Ins. Co. v. Madden*, 216 W. Va. 776, 613 S.E.2d 924 (2005).

With regard to Proposed Rule 53.1, I would note that this proposed process does not comport with what currently takes place in Federal Courts or West Virginia based on my experience. As previously stated, I have served as a Special Commissioner for discovery matters. I am also familiar with the appointment of Special Masters to resolve discovery disputes in the MDL Opioid case in the Northern District of Ohio and Judge Wilkes served as a Special Master for discovery disputes in the remand of the Distributor Opioid case to the Southern District of West Virginia

related to Cabell County and the City of Huntington and he served in a similar capacity for the MLP Opioid case.

The Proposed Rule never contemplates the Discovery Commissioner conducting a hearing, and the comments suggest that a hearing is not necessary. In my practice, and from what I have observed with regard to Judge Wilkes, a hearing is held on a discovery motion with a court reporter or other means to record the hearing, with all parties present. A recommended decision with findings of fact and conclusions of law is made, and any party may file exceptions with the Circuit Court Judge within a certain time period. Frequently, parties file no exceptions. In some hearings that I have conducted, I have issued verbal orders on what steps are to be taken immediately to expedite discovery because parties are often involved in complex matters and time is of the essence.

I do not agree with the provisions of Proposed Rule 53.1 that suggest a report is to be prepared, that it is not binding on the parties or the Court, and that discovery may not proceed until the Court adopts the report. I think this Proposed Rule 53.1 could just interject unnecessary delay into the discovery process. Based on my understanding of the current process, the Courts often do not have time to resolve civil discovery disputes, and they refer the discovery matters out to competent counsel for expedited treatment. Under the existing process, if no one files exceptions to the discovery commissioner's recommended decision, discovery may proceed expeditiously, and there is no delay in preparing the case for trial.

I would encourage the Court to strike the comment to Proposed Rule 53 and to not adopt Proposed Rule 53.1.

Proposed Rule 54 – I am confused by the redline edits in the Proposed Rule and what was intended by the Committee. At the bottom of the page, language appears related to Attorney's fees that is struck through. That language is not in the current Rule 54, so I do not know why it appears as stricken through. Perhaps it was not intended to be struck through and to be added instead. One of the big differences between our State Rules and the Federal Rules pertains to the absence of Federal Rule 54(d)(2) in the State Rules regarding attorney's fees. I have been on both sides of attorney's fees issues, and I have served as an expert recently on this issue. I would think the State Rules would benefit by the language in Federal Rule 54(d)(2), and I would encourage this Court to add and adopt similar language, as modified to apply in West Virginia.

> (2) Attorney's Fees.
>
> (A) Claim to Be by Motion. A claim for attorney's fees and related nontaxable expenses must be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages.
>
> (B) Timing and Contents of the Motion. Unless a statute or a court order provides otherwise, the motion must:
>
> (i) be filed no later than 14 days after the entry of judgment;

(ii) specify the judgment and the statute, rule, or other grounds entitling the movant to the award;

(iii) state the amount sought or provide a fair estimate of it; and

(iv) disclose, if the court so orders, the terms of any agreement about fees for the services for which the claim is made.

(C) Proceedings. Subject to Rule 23(h), the court must, on a party's request, give an opportunity for adversary submissions on the motion in accordance with Rule 43(c) or 78. The court may decide issues of liability for fees before receiving submissions on the value of services. The court must find the facts and state its conclusions of law as provided in Rule 52(a).

(D) Special Procedures by Local Rule; Reference to a Master or a Magistrate Judge. By local rule, the court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings. Also, the court may refer issues concerning the value of services to a special master under Rule 53 without regard to the limitations of Rule 53(a)(1), and may refer a motion for attorney's fees to a magistrate judge under Rule 72(b) as if it were a dispositive pretrial matter.

(E) Exceptions. Subparagraphs (A)–(D) do not apply to claims for fees and expenses as sanctions for violating these rules or as sanctions under 28 U.S.C. §1927.

Federal Rules of Civil Procedure

Rule 4(d) WAIVING SERVICE.

(1) *Requesting a Waiver.* An individual, corporation, or association that is subject to service under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

(A) be in writing and be addressed:

(i) to the individual defendant; or

(ii) for a defendant subject to service under Rule 4(h), to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process;

(B) name the court where the complaint was filed;

(C) be accompanied by a copy of the complaint, 2 copies of the waiver form appended to this Rule 4, and a prepaid means for returning the form;

(D) inform the defendant, using the form appended to this Rule 4, of the consequences of waiving and not waiving service;

(E) state the date when the request is sent;

(F) give the defendant a reasonable time of at least 30 days after the request was sent—or at least 60 days if sent to the defendant outside any judicial district of the United States—to return the waiver; and

(G) be sent by first-class mail or other reliable means.

(2) *Failure to Waive.* If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

(A) the expenses later incurred in making service; and

(B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

(3) *Time to Answer After a Waiver.* A defendant who, before being served with process, timely returns a waiver need not serve an answer to the complaint until 60 days after the request was sent—or until 90 days after it was sent to the defendant outside any judicial district of the United States.

(4) *Results of Filing a Waiver.* When the plaintiff files a waiver, proof of service is not required and these rules apply as if a summons and complaint had been served at the time of filing the waiver.

(5) *Jurisdiction and Venue Not Waived.* Waiving service of a summons does not waive any objection to personal jurisdiction or to venue.

Ohio Rules of Civil Procedure

RULE 4.7 Process: Waiving Service

(A) Requesting a Waiver. An individual, corporation, partnership, or association that is subject to service under Civ.R. 4 through 4.6 has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

(1) be in writing and be addressed as required by Civ.R. 4.2;

(2) name the court where the complaint was filed;

(3) be accompanied by a copy of the complaint, two copies of the waiver form appended to this Rule 4.7, and a prepaid means for returning the form;

(4) inform the defendant, using the form appended to this Rule 4.7, of the consequences of waiving and not waiving service;

(5) state the date when the request is sent;

(6) give the defendant a reasonable time of at least twenty-eight days after the request was sent - or at least sixty days if sent to the defendant outside of the United States - to return the waiver; and

(7) be sent by first-class mail or other reliable means.

(B) Limited to Courts of Common Pleas. The waiver of service provisions in this rule are limited to civil actions filed in the courts of common pleas but they do not apply to civil protection orders pursuant to Civ.R. 65.1 or to domestic relations matters as defined in R.C. 3105.011.

(C) Failure to Waive. If a defendant over which the court has personal jurisdiction fails, without good cause, to sign and return a waiver requested by a plaintiff, then the court may impose on the defendant:

(1) the expenses later incurred in making service; and

(2) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

(D) Time to Answer After a Waiver. A defendant who, before being served with process, timely returns a waiver need not serve an answer to the complaint until sixty days after the request was sent—or until ninety days after it was sent to the defendant in a foreign country.

(E) Results of Filing a Waiver. When the plaintiff files a waiver, proof of service is not required and these rules apply as if a summons and complaint had been served at the time of filing the waiver.

(F) Jurisdiction and Venue Not Waived. Waiving service of a summons does not waive any objection to jurisdiction or to venue.

North Carolina Rues of Civil Procedure Rule 4

(j5) Personal jurisdiction by acceptance of service. – Any party personally, or through the persons provided in Rule 4(j), may accept service of process by notation of acceptance of service together with the signature of the party accepting service and the date thereof on an original or copy of a summons, and such acceptance shall have the same force and effect as would exist had the process been served by delivery of copy and summons and complaint to the person signing said acceptance.

(j6) Service by electronic mailing not authorized. – Nothing in subsection (j) of this section authorizes the use of electronic mailing for service on the party to be served.